

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER R. DESMOND,	§
	§ No. 413, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 91009844DI
	§
Plaintiff Below-	§
Appellee.	§

Submitted: August 19, 2010

Decided: September 21, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 21st day of September 2010, upon consideration of the appellant's opening brief, the State's motion to dismiss, and the appellant's response thereto, it appears to the Court that:

(1) The defendant-appellant, Christopher R. Desmond, filed an appeal from the Superior Court's June 25, 2010 order denying his motion for recusal. For the reasons that follow, we conclude that the appeal must be dismissed.

(2) In 1992, Desmond was found guilty by a Superior Court jury of 10 counts of Robbery in the First Degree and related offenses. He was sentenced to 70 years of Level V incarceration. This Court affirmed

Desmond's convictions on direct appeal.¹ Since that time, Desmond has filed 6 motions for postconviction relief, all of which the Superior Court has denied. This Court has affirmed all of the Superior Court's decisions, most recently in *Desmond v. State*, Del. Supr., No. 429, 2006, Steele, C.J. (Oct. 11, 2007).

(3) In May 2010, Desmond filed a motion in the Superior Court requesting the trial judge who has presided over his case since his 1992 trial to recuse himself from ruling on any motions Desmond might file in the future. By order dated June 25, 2010, the Superior Court denied the motion. On this latest appeal, Desmond asks this Court to vacate the trial judge's denial of his most recent motion for postconviction relief as well as his denial of the motion for recusal.

(4) Under Article IV, §11(1)(b) of the Delaware Constitution, this Court may review only a final judgment in a criminal case. The denial of a motion for recusal of a judge is not a final, appealable order.² Therefore, Desmond's appeal from the Superior Court's interlocutory order denying his motion for recusal must be dismissed.³

¹ *Desmond v. State*, 654 A.2d 821 (Del. 1994).

² *Webb v. State*, Del. Supr., No. 49, 2002, Veasey, C.J. (Feb. 27, 2002) (citing *Robinson v. State*, 704 A.2d 269, 271 (Del. 1998)).

³ Supr. Ct. R. 29(b).

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice